

# State of South Dakota

## EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

744Q0067

### HOUSE BILL NO. 1124

Introduced by: Representatives Hunt, Engels, Faehn, Greenfield, Lederman, Novstrup (David), Nygaard, Solberg, Solum, Street, and Vanneman and Senators Novstrup (Al), Fryslie, Gray, Hanson (Gary), and Olson (Russell)

1 FOR AN ACT ENTITLED, An Act to prohibit improper influence regarding real estate  
2 appraisals.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 36-21B be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 No real estate appraiser with an interest in a real estate transaction or the financing of any  
7 loan secured by real estate involving an appraisal assignment may improperly influence or  
8 attempt to improperly influence the development, reporting, result, or review of a real estate  
9 appraisal by:

- 10 (1) Coercion, extortion, or bribery;
- 11 (2) Withholding or threatened withholding of payment for an appraisal fee;
- 12 (3) Conditioning of the payment of an appraisal fee upon the opinion, conclusion, or  
13 valuation to be reached;
- 14 (4) Requesting that the appraiser report a predetermined opinion, conclusion, or



1 valuation or the desired valuation of any person; or

2 (5) Any other act or practice that impairs or attempts to impair an appraiser's  
3 independence, objectivity, and impartiality.

4 A violation of this section may constitute grounds for discipline against a real estate  
5 appraiser who is registered, licensed, or certified pursuant to the laws of the State of South  
6 Dakota.

7 Section 2. That chapter 36-21B be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 No person violates section 1 of this Act solely by asking a real estate appraiser to consider  
10 additional, appropriate property information, or to provide further detail, substantiation, or  
11 explanation for the appraiser's value conclusion, or to correct errors in the appraisal report, or  
12 by withholding payment of an appraisal fee based on a bona fide dispute regarding the  
13 appraiser's compliance with the appraisal standards adopted by the Department of Revenue and  
14 Regulation pursuant to this chapter. A person does not violate section 1 of this Act solely by  
15 retaining a real estate appraiser from panels or lists on a rotating basis, or by supplying an  
16 appraiser with information the appraiser is required to analyze under the appraisal standards  
17 adopted by the department, such as agreements of sale, options, or listings of the property to be  
18 valued.

19 Section 3. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 No mortgage lender, mortgage broker, or mortgage loan originator, required to be licensed  
22 or registered by this chapter, with an interest in a real estate transaction or the financing of any  
23 loan secured by real estate involving an appraisal assignment may improperly influence or  
24 attempt to improperly influence the development, reporting, result, or review of a real estate

1 appraisal by:

- 2 (1) Coercion, extortion, or bribery;
- 3 (2) Withholding or threatened withholding of payment for an appraisal fee;
- 4 (3) Conditioning of the payment of an appraisal fee upon the opinion, conclusion, or  
5 valuation to be reached;
- 6 (4) Requesting that the appraiser report a predetermined opinion, conclusion, or  
7 valuation or the desired valuation of any person; or
- 8 (5) Any other act or practice that impairs or attempts to impair an appraiser's  
9 independence, objectivity, and impartiality.

10 A violation of this section may constitute grounds for discipline against a mortgage lender,  
11 mortgage broker, or mortgage loan originator who is licensed or registered pursuant to this  
12 chapter.

13 Section 4. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 No person violates section 3 of this Act solely by asking a real estate appraiser to consider  
16 additional, appropriate property information, or to provide further detail, substantiation, or  
17 explanation for the appraiser's value conclusion, or to correct errors in the appraisal report, or  
18 by withholding payment of an appraisal fee based on a bona fide dispute regarding the  
19 appraiser's compliance with the appraisal standards adopted by the Department of Revenue and  
20 Regulation pursuant to this chapter. A person does not violate section 3 of this Act solely by  
21 retaining a real estate appraiser from panels or lists on a rotating basis, or by supplying an  
22 appraiser with information the appraiser is required to analyze under the appraisal standards  
23 adopted by the department, such as agreements of sale, options, or listings of the property to be  
24 valued.